

REMARKS

Claims 1-15 are pending in this application.

I. Amendment to the Claims

By this Amendment, claims 1-15 are amended for clarity. No new matter is added.

II. Restriction and Election of Species Requirement

In reply to the September 19, 2008 Restriction Requirement, Applicants provisionally elect Group I, claims 1-10, with traverse. In reply to the September 19, 2008 Election of Species Requirement, Applicants provisionally elect species 1, Figs. 1-5 with traverse. At least claims 1, 2 and 4-6 read on the elected species, and at least claim 1 is generic to all species.

A. Election of Species is Improper

This Election of Species Requirement is strongly traversed since it is contrary to PCT rules. For example, Article 27 of the Patent Corporation Treaty requires that: "no national law shall require compliance with requirements relating to the form or contents of the international application different from or in addition to those which are provided for in this Treaty and the regulations."

Further, PCT Rule 13 requires that claims which encompass one single general inventive concept be searched and examined in the same international application. For example, PCT Rule 13.1 states: "the international application shall relate to one invention or to a group of inventions so linked as to form a single general inventive concept."

Furthermore, PCT Rule 13.4 expressly states that: "subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention."

The Election of Species Requirement is a convention specific to U.S. National Patent Application Examination practice. PCT Rule 13.1 specifically contemplates the single examination of a group of inventions so linked as to form a single general inventive concept, and PCT Rule 13.4 specifically requires examination of species claims within a single general inventive concept. Nothing in the PCT or its rules permits issuing an Election of Species Requirement. Any United States practice (such an Election of Species Requirement) or interpretation of the rule which is different from or in addition to the unity of practice as delineated in PCT Unity Rules 13.1-13.4 is necessarily in violation of PCT Article 27. Species practice is not provided for under PCT Rules 13.1-13.4 and is contrary to PCT Article 27, and the present Election of Species Requirement is accordingly prohibited by Article 27.

The Examiner is respectfully requested to reconsider and withdraw the Election of Species Requirement and to examine all of the species and claims in this application.

B. Restriction Requirement is Improper

The Office Action asserts that the invention of Group I is a container with a cylindrical body with a neck and bottom while the mold of Group II is for anything which could be a case or container without the neck. Applicants disagree. Nonetheless, to expedite prosecution, the claims of Group II are amended to recite a neck is disposed in an upper portion of the body, as similarly recited in claim 1. Applicants respectfully submit that there exists *a priori* unity of invention with respect to claims 1-10 and 11-15, by virtue of the fact that all claims are directed to a blow-molded container or mold for blow molding a container including a cylindrical body, a neck disposed in an upper portion of the body, and a bottom disposed in a lower portion of the body.

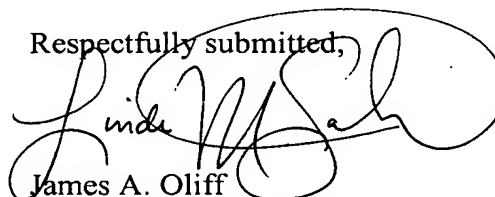
Therefore, Applicants respectfully submit there is unity of invention. Thus, withdrawal of the Restriction Requirement is respectfully requested.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-15 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Linda M. Saltiel
Registration No. 51,122

JAO:SGS/jth

Date: October 15, 2008

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
